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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,357	04/04/2001	Kanako Miyazaki	43890-506	1415
7590 05/10/2006 MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER BURD, KEVIN MICHAEL	
			ART UNIT 2611	PAPER NUMBER

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/825,357

Applicant(s)

MIYAZAKI ET AL.

Examiner

Kevin M. Burd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. This office action, in response to the amendment and remarks filed 5/1/2006, is a non-final office action.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/1/2006 has been entered.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochi et al (WO98/52354) in view of Ezaki et al (US 6,263,506). Ochi et al (US 6,556,776) will be used as a translation of Ochi et al (WO98/52354).

Regarding claims 1 and 3, Ochi discloses the digital signal recording apparatus in figure 1. Digital information decoding unit 2 determines if the received signal is a digital signal and processes the signal according to a subscriber's information to convert the signal into a signal which is decodable by a video/audio decoder 19 (column 5, lines 7-17). Channel selection circuit 16 selects a specific digital signal among a plurality of digital information signals and outputs the selected digital information to the recording and reproducing unit 3 via bus line 89 between the input and output terminals 8 and 9 (column 5, lines 18-33). The selected digital signal is the output signal and this output signal will show the results of the judging. Therefore, the determining unit for judging comprises elements 2 and 3 in figure 1. The recording and reproducing unit 3 examines a signal recorded on the recording medium to distinguish between an analog recording method and a digital recording method and outputs a recording method identification signal from an output terminal 10 (column 4, lines 61-65). Therefore, the display control unit comprises element 3 in figure 1 and specifically element 27 of figure 3. The recording apparatus records and reproduces digital video and audio information served through satellite broadcasting (column 1, lines 8-14). Figure 1 discloses apparatus 1 outputting the output signal to TV monitor 11 according to the display control signal (recording method identification signal) from terminal 10. This shows the results of judging in that the properly selected and decoded signal that indicates the signal

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includes data of a digital broadcast will be displayed in TV monitor 11. Therefore, the display unit comprises TV monitor 11. Ochi does not disclose the input video signal comprises a header specific to a data signal of a data broadcast. Ezaki discloses the data stream for digital satellite broadcasting may contain various additional control data and the header may include information for identifying the hardware version of a particular item to be controlled (column 7, lines 28-42). This header is specific to a data signal as shown in figures 9A-9D. It would have been obvious for one of ordinary skill at the time of the invention to combine the header comprising data signal specific information used in MPEG2 encoding convention as described in Ezaki into the digital signal recording apparatus, which recovers data signals conforming to the MPEG2 encoding convention of Ochi. By transmitting this additional information, it is possible for the broadcasting satellite receiver to read and utilize only the data from the broadcast signal corresponding to its hardware version (Ezaki, column 7, lines 38-42)

Regarding claim 2, the recording and reproducing unit 3 is shown in figure 1 and can receive signals from recoding media (column 1, lines 27-39).

Regarding claims 4 and 8, the signal is input from a digital broadcast or from a recording and reproducing unit 3. One of these signals is passed through switch 4 to the TV monitor 11 (figure 1).

Regarding claims 5-7, unit 3 outputs a recording method identification signal from output terminal 10 (column 4, lines 61-65).

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-3008. The examiner can normally be reached on Monday - Friday 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin M. Burd  
5/8/2006

  
**KEVIN BURD**  
**PRIMARY EXAMINER**